

So

Petition for Leave to the Governor of the State of New York

In the Supreme Court of the United States

THE STATE OF GEORGIA,
Complainant,

vs.

THE STATE OF SOUTH CAROLINA,
Respondent,

No.

ORIGINAL.

Comes now the complainant in the above entitled cause, the State of Georgia, by the Attorney-General, Clifford Walker, and Thomas F. Green, of counsel, and respectfully asks leave to file the original bill in chancery hereto attached.

THE STATE OF GEORGIA,

By Clifford Walker
Attorney-General of Georgia.

Thos. F. Green
Of Counsel.
Max Michael

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1918.

THE STATE OF GEORGIA

vs.

THE STATE OF SOUTH CAROLINA.

} Original Bill
} in Chancery,
} No. _____

BILL OF COMPLAINT.

To the Honorable The Chief Justice and the Associate Justices of the Supreme Court of the United States:

The State of Georgia, one of the United States of America, by and through its Governor, the Honorable Hugh M. Dorsey, brings this its bill of complaint against the State of South Carolina, also one of the United States of America, and complains and says as follows:

I.

That the leave of this Honorable Court has been first given to the State of Georgia to file this its complaint against the respondent in this case, the State of South Carolina.

II.

That on August 21st, 1917, the legislative branch of the State of Georgia passed the following resolution:

“WHEREAS, Serious dispute exists as to boundary between the States of Georgia and South Carolina along the Savannah and Tugalo rivers, all the way from the mouth of said Savannah river to the head of the Tugalo river at the junction of the Keowee and Chattooga rivers, and on to the North Carolina line, and,

WHEREAS, Public policy as affecting the people of both States and the rights of Georgia require

that all doubt or cloud as to the jurisdiction, or law enforcement, or title, or taxing power, or franchises, touching localities in question, and boundary between the two States should be, without delay, cleared away, correctly adjudicated and finally settled;

THEREFORE, RESOLVED, That His Excellency, the Governor, be and he is hereby authorized and requested to institute a suit, or suits, in the Supreme Court of the United States, by and in the name of the State of Georgia, against the State of South Carolina for establishing the claim and boundary of Georgia to and including the entire bed of said Savannah and Tugalo rivers in their entire lengths, islands and all, clear over to the South Carolina shore, at the ordinary mean water level of said rivers; and to prosecute for and recover the same wherever any adverse occupancy does or may exist."

This suit is now filed by the Governor of Georgia in conformity with the aforesaid resolution.

III.

Your orator shows that Charles the Second, King of Great Britain, by charter dated March 24th, 1663, in the fifteenth year of his reign, granted to eight persons as therein named, as lords, proprietors thereof, all the lands lying and being within his dominions of America between thirty-one and thirty-six degrees of South latitude, in a direct West line to the South seas, styling the lands so described "the province of Carolina;" that on the thirtieth day of June, 1665, in the seventeenth year of his reign, the said King granted to the said Lords, proprietors a second charter, enlarging the bounds of Carolina, viz., from twenty-nine degrees of North latitude to thirty-six degrees, thirty minutes, and from those points on the sea coast West in a direct line to

the South seas; that seven of the said proprietors of Carolina sold and surrendered to George the Second, late King of Great Britain, all their title and interest in the said province, and the share of the remaining proprietor was separated from the King's, and allotted to him in the North part of North Carolina; that Carolina was afterwards, about 1700, divided into provinces, called North and South Carolina.

IV.

Although the proprietors named re-decided the territories above described to George the Second, King of Great Britain, the above colony of South Carolina was nevertheless established under what was known as a royal grant as distinguished from a proprietary grant. Under the former grant the right of the soil and the jurisdiction over the territory remained in the crown, and the boundaries, though described in letters patent, were subject to alteration at the pleasure of the Crown. South Carolina then under the grants and in the manner described in paragraph III of this bill held and enjoyed considerable territories in America until the year 1732.

V.

That on June 9th, 1732, George the Second, "by the Grace of God, of Great Britain, France and Ireland, King, defender of the faith," in the fifth year of his reign, issued certain letters patent to "our right, trusty and well beloved John, Lord Viscount Percival, of our kingdom of Ireland, our trusty, and well beloved Edward Digby, George Carpenter, James Oglethorpe," and others who should be known by the name of "the Trustees for establishing the colony of Georgia in America."

VI.

Under these letters patent and under the authority still resting in King George the Second, a portion of what was originally the colony of South Carolina was taken from this colony and became from that time and ever more the "lands, country and territories" of the new colony of Georgia, with the exception of such territory as was subsequently granted by the State of Georgia to the United States of America, and which "lands, country and territories" so subsequently granted is not involved in this complaint.

VII.

Your orator further shows that under said letters patent certain territory was granted to the province of Georgia, the terms of said grant being shown in the following language taken literally and accurately from said letters:

"Do give and grant to the said corporation, and their successors ----- of all those lands, country and territories situate, lying and being in that part of South Carolina, in America, which lies from *the most northern part of a stream or river there*, commonly called the Savannah, all along the sea coast to the Southward to the southern stream of a certain other great water or river called the Altamaha, and westwardly from the heads of the said rivers respectively in direct lines to the South Seas -----."

VIII.

That under these letters patent from King George the Second, the new colony of Georgia was established and the *northern part* of that stream or river, known as the Savannah, was made the northern, or rather the

eastern boundary of the colony of Georgia, and the southern, or rather the western boundary of the older colony of South Carolina. The colony of Georgia then went into possession of all these "lands, country and territories" and enjoyed and exercised, notoriously and adversely, control and jurisdiction over them, including the Savannah river to the northern or eastern side of said river, which was the northern or eastern bank thereof.

IX.

That this situation so continued until what was known as the War of the Revolution when what were known as the thirteen original colonies, by force of arms, separated themselves from the mother country, England, and later became under the articles of Confederation, The United States of America. South Carolina and Georgia then, as new and independent states, retained all of the territory which they held, owned and enjoyed under grants from the Crown of England, except such territories as they subsequently deeded to the United States Government and which territory is not involved in this complaint. It is, therefore, alleged that, after the independence of the United States of America had been established and recognized, the *northern part* of that stream or river known as the Savannah became the eastern boundary of the State of Georgia and the western boundary of the State of South Carolina. Georgia then as a state continued to hold peaceably, notoriously and adversely all that territory enjoyed as a colony and claimed and exercised control and jurisdiction over the soil to the northern or eastern bank of the river Savannah.

X.

Your orator further shows that the uppermost or the northern branch of the Savannah River at the confluence

of this river with what is known as the Seneca River, formerly known as the Keowee River, is known as the Tugalo River, which latter river in its upper passages above the point of its confluence with the Tallulah River, is known as the Chattooga River, which latter river touches the North Carolina line at a well established point.

XI.

Your orator further avers that whereas that stream whose *northern part* was designated as the boundary line between South Carolina and Georgia was referred to as the Savannah, this stream is composed of the streams heretofore mentioned, the Chattooga, Tugalo and Savannah Rivers, respectively, running from the North Carolina line down between Georgia and South Carolina until the waters are emptied into the Atlantic Ocean and that these streams are the streams meant and referred to in the original letters patent heretofore described, and that the northern or eastern part of these three streams respectively constitute the eastern boundary line of the State of Georgia as it has always existed since 1732 and so exists today.

XII.

That when the northern or eastern part of a stream is referred to or designated such language clearly means the northern or eastern bank of said stream and within such stream would be included the entire bed of said stream, including all islands, and all the waters flowing there through, thus making the eastern boundary of any territory adjacent to such a boundary line extend to the eastern bank of said stream at the ordinary mean water level of said stream.

XIII.

Your orator also shows that the exact boundary line between South Carolina and Georgia has always been an important question and is now becoming much more important. This stream dividing South Carolina and Georgia, particularly in its lower branches, is a large volume of water, containing many large valuable islands and there have been built in and across said streams various large dams of masonry in and upon which dams have been placed and erected machinery of considerable value. This development will continue to grow and this boundary stream has now and will have in the future placed within its waters large and valuable properties. It is, therefore, of the greatest importance to Georgia that this boundary line may be fixed and determined for all times. The question of taxation is a necessary and valuable right to any sovereign state and this question has already arisen and will continue to arise, corporations who own property within the waters of this river have claimed and will continue to claim that their properties are situated in South Carolina, if it suits their interest so to claim.

XIV.

Crimes have been committed and doubtless will be committed in the future upon the waters of this river and alleged criminals will claim that the act was committed either within the jurisdiction of Georgia or within the jurisdiction of South Carolina as it may suit their necessities.

XV.

South Carolina has claimed and will doubtless claim in the future that certain properties on this river are

within the territory and jurisdiction of the State of South Carolina and that certain crimes have been committed upon the territory and within the jurisdiction of its sovereignty. At this present time the State of South Carolina is in possession of certain territory of Georgia in the Savannah river and is attempting to exercise control, jurisdiction and the right of taxation over a portion of this river, claiming this right to the middle or thread of the stream, and is levying a tax on the property of The Georgia Railway & Power Company, a Georgia corporation, which has built valuable properties within this river. Georgia, on other hand, says that these improvements are within its territory and demands that taxes be paid to it. It is, therefore, very necessary that this boundary question be settled by this Honorable Court.

XVI.

It is apparent that this question has arisen repeatedly in the past and will continue to arise in the future, and that, therefore, a multiplicity of suits will result and for this reason, if for no other, the boundary line between Georgia and South Carolina should be permanently and authoritatively settled.

WHEREFORE, Your orator, being remediless in the ordinary tribunals of the land, brings this, its bill of complaint, in this court and specially waiving an answer under oath prays:

(1) That beginning at the North Carolina line it may be decreed by this court that the eastern boundary of the State of Georgia is the northern or eastern bank of the rivers Chattooga, Tugalo and Savannah at the ordinary mean water level of these rivers on their eastern banks.

(2) That your orator may have such other and further relief as the necessities of its case and the principles of equity demand.

(3) That the most gracious writ of subpoena directed to the State of South Carolina and to Hon. Robert A. Cooper, the Governor of said State, and to Hon. Sam'l H. Wolf, the Attorney-General of said State, may issue commanding them and each of them to be and appear in this Honorable Court on a day to be therein named and to abide the judgment of this court.

Clifford Wacks
 Attorney-General of Georgia.

Post Office Address:

Atlanta, Georgia.

Thos F. Green
Max Michael
 Of Counsel.

Post Office Address:

Athens, Georgia.

STATE OF GEORGIA, }
 County of Fulton. }

Personally came before me, the undersigned, an officer of said state, authorized to administer oaths, Hugh M. Dorsey, who on oath says that he is the Governor of Georgia, and that he has read the foregoing bill and is familiar with the contents thereof and that the same is true to the best of his knowledge, information and belief.

Hugh M. Dorsey

Sworn to and subscribed before me,

this *28* day of *February*, 1919.

W. T. Harrison

W. P. Stok at Large



In the Supreme Court of the United States,

OCTOBER TERM, 1918.

No. 32 ORIGINAL.

THE STATE OF GEORGIA,

Complainant,

vs.

THE STATE OF SOUTH CAROLINA,

Respondent.

ANSWER TO ORIGINAL BILL IN CHANCERY.

SAMUEL M. WOLFE,

Attorney General,

For the State of

South Carolina,

Defendant.

CLIFFORD WALKER,

Attorney General,

Atlanta, Georgia.

THOMAS F. GREEN,

Athens, Georgia.

Counsel for Complainant.

To the Honorable, the Chief Justice and the Associate Justices
of the Supreme Court of the United States:

The answer of the State of South Carolina, one of the United States of America, pursuant to subpoena issuing from said honorable Court, to the Bill in Chancery, exhibited against said State on and in behalf of the State of Georgia, also one of the United States of America, by the Honorable Hugh M. Dorsey, Governor, and the Honorable Clifford Walker, Attorney General, saving at all times hereafter to herself, the said State of South Carolina, all manner of benefits of exception or

otherwise that can or may be had or taken to such errors, uncertainties or imperfections as may exist in said Bill of Complaint, to so much thereof as defendant deems material, by his Excellency, Robert A. Cooper, Governor, and Samuel M. Wolfe, Attorney General, of said State of South Carolina, respondent, is as follows :

1. That the defendant has no knowledge or belief other than that based upon the allegation therein contained, and therefore for the purposes of this action, denies the allegations in paragraph ONE of the complaint.

2. That the defendant has no knowledge or belief other than that based upon the allegations therein contained, and therefore for the purposes of this action, denies the allegations in paragraph TWO of the complaint.

3. That in substance defendant admits the allegations of paragraph THREE of the complaint, with the following modifications :

That Charles the Second, King of Great Britain, on the thirtieth day of June, in the seventeenth year of his reign, granted to certain Lords-Proprietors therein named, their heirs and assigns, all that territory, or tract of ground situate in North America extending north and eastward as far as the north end of Carahtuke River or gullet, upon a straight westerly line to Wyonoahe Creek, which lies within or about the degrees of thirty-six and thirty minutes Northern latitude, and westerly in a direct line as far as the South Seas ; and south and westward as far as the twenty-ninth degree of North latitude, inclusive ; thence west, in a direct line to the South Seas, which territory was entered upon and taken possession of by the said Lords-Proprietors and called Carolina. That said grant carried with it all intervening territory whatsoever together with all ports, harbors, bays, rivers, soil, fields, woods, lakes, rights and privileges therein named.

That thereafter a portion of the aforesaid territory beyond the thirty-fifth degree of North latitude was allotted to one

of the eight Lords-Proprietors, and that portion remaining south and westerly as aforesaid, of said parallel of North latitude was retained by the seven remaining Lords-Proprietors absolutely and in 1729, the two provinces thus separated, were designated as North Carolina and South Carolina respectively.

Otherwise said allegations are specifically denied.

4. That defendant admits allegations in paragraph FOUR of the complaint, with the following modifications:

On the 26th day of July, in the third year of the reign of George the Second, King of Great Britain, and in the year of our Lord 1729, the heirs and legal representatives of all the said remaining seven grantees in conformity with an Act of Parliament entitled An Act for establishing an agreement with seven of the Lords-Proprietors of Carolina for the surrender of their title and interest in that province, to his Majesty, for and in consideration of the sum of twenty-two thousand, five hundred pounds, paid to said heirs by the agent of said king, sold and surrendered to his Majesty all their right of soil and privileges incident thereto, and made deed of indenture thereto which was duly enrolled in the Chancery of Great Britain and there remains in the Chapel of the Rolls. That afterward, his said Majesty, George the Second, appointed Robert Johnson, Esqr., to be Governor of the province of South Carolina, by commission under the Great Seal of the kingdom of Great Britain, authorizing the said Governor Johnson to grant lands within the said province.

That pursuant thereto, the said Governor Johnson asserted his jurisdiction over such area of territory as was included in the grant by King Charles the Second to the aforesaid Lords-Proprietors.

That saving and excepting with these modifications, the allegations therein contained are specifically denied.

5. That defendant admits the allegations contained in paragraph FIVE of the complaint, with the following modifications:

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That afterwards, the Right Honorable Viscount Percival, the Honorable Edward Digby, the Honorable George Carpenter, James Oglethorpe, Esqr., with others, petitioned the lords of the committee of his Majesty's privy council for a grant of lands in South Carolina, for the charitable purpose of transporting necessitous persons and families from London to that province, there by their industry, to procure a livelihood, and for this purpose to be incorporated. That the lords of the said privy council referred the said petition to the board of trade, so called, of Great Britain, who on the 17th day of December, A. D. 1730, made report thereon and recommended that his Majesty would be pleased to incorporate the said petitioners as a charitable society and further recommended that his Majesty be pleased to grant said petitioners and their successors forever, "all that tract of land in his province of South Carolina lying between the Rivers Savannah and Alatamaha, to be bounded by the most navigable and largest *branches* of the Savannah, and the most southerly branch of the Alatamaha," and that they should be separated from the colony of South Carolina and be made independent thereof, save only in command of their militia. And that pursuant thereto, his Majesty, George the Second, did incorporate the said Lord Viscount Percival and others by the name of "The Trustees for establishing the Colony of Georgia, in America, with perpetual succession."

That saving and excepting with these modifications, the allegations of said paragraph are specifically denied.

6. That with the following modifications and addenda, the allegations of paragraph SIX are admitted:

That defendant alleges that the cession on the part of Georgia of a certain portion of that territory acquired under the letters-patent referred to in paragraph five herein, involved such territory as was prior to the Beaufort convention, a subject of controversy between the said State of Georgia and the State of South Carolina, and that the boundary line governing in said

cession on the east, was that fixed by said convention, and to this extent such matter is one pertinent to this action.

7. Defendant herein denies such allegations contained in paragraph SEVEN of the complaint as purports to be a "literal and accurate" transcript of said letters-patent, it being submitted that the language of said grant does not describe the lands, country and territory passing as that which lies "from the most northern part of a stream or river, etc.," but on the contrary the descriptive language of said grant literally and correctly transcribed is: "* * * seven undivided parts (the whole into eight equal parts to be divided) of all those lands, countries, territories situate, lying and being in that part of South Carolina in America which lies from the *most northern stream of a river there commonly called the Savannah*; all along the seacoast to the southward unto the most southern *stream* of a certain other great water or river called the Alata-maha, and westward from the heads of the said rivers respectively, in direct lines, to the South Seas, and all that spare circuit and precinct of land lying within said boundaries, etc, etc."

8. And answering allegations contained in paragraph EIGHT of the complaint, defendant respectfully shows that it was from the territory outlined in the foregoing paragraph rather than that purporting to be described in paragraph eight of the complaint, that the province of Georgia was established. And defendant denies that the colony of Georgia went into open, notorious and adverse possession of any territory or appurtenances other than that herein delimited or that South Carolina had any notice of any such adverse claim, but on the contrary asserted her own claim of possession to the middle thread of said stream known as the Savannah, as the common boundary. Defendant further denies that plaintiff has ever or does now exercise jurisdiction beyond the middle thread of the stream of the boundary rivers, Savannah, Toogaloo and the Chatooga, as hereinafter alleged.

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9. Defendant denies so much of paragraph NINE as alleges that Georgia as a State after the Revolution continued to hold peaceably, notoriously and adversely to the northern or eastern bank of the Savannah.

Defendant respectfully submits in answer to allegations contained in paragraph TEN of the complaint that it is the southern branch and not the northern branch as herein alleged, of the Savannah, that is known as the Tugaloo.

11. Defendant denies specifically the allegations contained in paragraph ELEVEN of the complaint.

12. Defendant denies specifically the allegations contained in paragraph TWELVE of the complaint.

13. Defendant denies so much of paragraph THIRTEEN of the complaint as is not hereinafter modified or specifically admitted and alleges that there has been no question as to the boundary line between the State of Georgia and the State of South Carolina since the adjustment of the controversy hitherto existing, in the Beaufort convention.

14. Defendant, answering allegations contained in paragraphs FOURTEEN, FIFTEEN and SIXTEEN of the complaint, respectfully submits that there is no longer need for controversy as to the boundary line between the State of Georgia and the State of South Carolina inasmuch as this matter was finally settled by the Beaufort convention.

15. Respondent further answering and by way of recapitulation submits that Charles the Second, King of Great Britain, by his letters-patent, granted unto certain Lords-Proprietors therein named, their heirs and assigns, on the 30th day of June, of the seventeenth year of his reign, and in A. D. 1663, all that province, territory or tract of ground situate in North America extending north and eastward as far as the north end of the Carahtuke River or gullet upon a straight westerly line to Wyonoahe Creek, which lies within or about the degrees of 36 and 30 minutes northern latitude and west in a direct line as far as the South Seas and south and westward as far as 29

degrees north latitude, inclusive, and west in a direct line as far as the South Seas, which territory was called Carolina, together with all ports, harbors, bays, rivers, soil, land, fields, woods, lakes and other rights and privileges therein named; that thereafter said Lords-Proprietors, grantees aforesaid, by virtue of said grant, entered upon and took possession of said territory and established within the same many settlements and erected therein posts of defense.

16. That seven of the said Proprietors of Carolina sold and surrendered to George the Second, then King of Great Britain, all their title and interest in the said province and the share of the remaining proprietor was allotted to him in that portion, which, subsequent to the division of Carolina into two provinces, was called North Carolina; the remaining portion called South Carolina, being the exclusive property of the crown.

17. That afterwards, on the 9th day of June, 1732, King George the Second, by his letters-patent or royal charter under the Great Seal of Great Britain incorporated certain petitioners by the name of the trustees, for the establishing of the Colony of Georgia in America with perpetual succession and did by the said letters-patent give and grant in free and common socage all those lands, countries and territories situate, lying and being in that part of South Carolina in America which lay from the most northern stream of a river commonly called the Savannah, thence along the seacoast to the southward unto the most southern branch of a certain other great river called the Alatamaha, and westward from the heads of the said rivers respectively, in direct lines to the South Seas.

18. That thereafter, to wit, on the sixth day of August, 1754, his Majesty, George the Second, constituted and appointed John Reynolds, Esquire, to be Captain General and Commander-in-Chief in and over said Colony of Georgia in America, with the following boundaries: Lying from the most northerly stream of a river commonly called Savannah, all along the seacoast to the southward end of the most southern

stream of a certain other great river called the Alatomaha and westward from the heads of the said rivers in straight lines to the South Seas.

19. That afterwards, to wit, from the year 1775 to the year 1783 open war existed between the Colonies of South Carolina and Georgia and other Colonies constituting the United States on the one part and his Majesty, George the Third, King of Great Britain, on the other part, and on the third day of September, in the year of our Lord 1783, a definite Treaty of Peace was signed and concluded at Paris by and between certain authorized commissioners on the part of the said belligerent powers, which was afterwards duly ratified and confirmed by the said two respective powers and by the first article of said treaty his Britanic Majesty acknowledged the sovereignty and independence of the American Colonies aforesaid.

20. That in the year 1782, as the result of the assertion of certain claims by the State of Georgia, a dispute arose between said State and the State of South Carolina concerning the boundary line between said two States, and the State of South Carolina in consequence thereof petitioned the Congress of the United States for a hearing and determination of the differences and disputes subsisting between said State and the State of Georgia, agreeably to the Ninth Article of the Articles of Confederation and that said Congress thereupon on the same day did resolve that the lawful agents of said respective States should convene and arrive at an amicable adjustment of these differences as to the boundary.

21. That of this resolve, due notice was served upon the State of Georgia by serving its Legislature with an attested copy of said petition of the State of South Carolina and said resolve of Congress.

22. That on the first day of September, 1786, said authorized agents from the State of South Carolina and the State of Georgia respectively, in pursuance of the order of Congress, appeared before its session and produced their credentials,

which were read and then recorded, together with the Acts of their respective Legislatures, and these Acts and credentials authorized said agents to settle and compromise all the differences and disputes aforesaid as well as to appear and represent the said States respectively before any tribunal that might be created by Congress for that purpose agreeably to the said Ninth Article of the Confederation. And in conformity to the powers aforesaid, said Commissioners of the said respective States of South Carolina and Georgia afterwards on the 28th day of April, in the year of our Lord 1787, met at Beaufort, in the State of South Carolina, and then and there entered into, signed and concluded a Convention between the said respective States, by the first article of which Convention it was agreed that the most northern branch or *stream* of the River Savannah from the sea or mouth of such stream to the fork or confluence of the rivers then called Tugaloo and Keowee; and thence the most northern branch or stream of the River Tugaloo to its intersection with the northern boundary line of South Carolina if said branch or stream of the River Tugaloo extended so far north, reserving all the islands in said Rivers Savannah and Tugaloo to the State of Georgia, etc. And by the third article of the Convention aforesaid it was agreed by the State of Georgia that thereafter no claim would be asserted by said State to any *lands* northward or northeastward of the boundary above established, but relinquished and ceded to the State of South Carolina all the right, title and claim which the said State of Georgia had in or to the said lands. That the said State of Georgia did also declare that it would at all times thereafter ratify and confirm all and whatsoever the said Commissioners or a majority of them representing the said State at the Convention aforesaid did or should do in adjudging the premises and that the said action would be forever binding on said State.

23. That thereafter, to wit, on the 28th day of April, 1788, in the Senate-House of the General Assembly of the State of South Carolina, an Ordinance was passed ratifying and con-

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firming the Convention between the States of South Carolina and Georgia concluded at Beaufort on the 26th day of April, 1787, establishing the boundary between the two States of Georgia and South Carolina as aforesaid. That on February 1, 1788, the General Assembly of the State of Georgia ratified the Treaty of Beaufort aforesaid fixing the boundary between the two States of Georgia and South Carolina.

24. That subsequent to the conventional agreement, to wit, on the ninth day of August, in the year of our Lord one thousand seven hundred and eighty-seven, the delegates of the said State of South Carolina in Congress moved that the acts of said Convention be ratified and confirmed and that the lines and limits therein adopted be thereafter taken and received as the boundary between the said States of South Carolina and Georgia, which motion was by the unanimous vote of Congress committed and the same Convention was thereupon entered of record upon the Journals of Congress.

25. That the boundary line between the State of Georgia and the State of South Carolina has accordingly been from said date of the ratification of the Beaufort Convention recognized and acquiesced in by the State of South Carolina and the State of Georgia as follows: From the most northern stream or branch of the river known as the Savannah at its entrance into the ocean to the confluence of the Tugaloo and Seneca (formerly Keowee), reserving all the islands in the said Rivers Tugaloo and Savannah River to Georgia, and from the confluence of the said Tugaloo and Seneca River up the most northern branch or stream of the said Tugaloo River, namely, the Chatooga River, to the North Carolina line on the 35th degree of north latitude, the line being low watermark at the *southern* shore of the most northern stream of said rivers where the middle of the river is broken by islands and the middle thread of the stream where the rivers flow in one stream or volume.

26. That since the date of the Beaufort Treaty and its ratification, the States of South Carolina and Georgia respectively have recognized the dividing or boundary line as being that set

out in the foregoing paragraph as conforming as nearly as possible to the line agreed on in the Beaufort Convention. This was the language of Section 18 of the Code of 1861, of the State of Georgia, the complainant herein, and has been the language reiterated and repeated in every subsequent code of laws of said State of Georgia up to and inclusive of the Code of 1911 (See Section 17), as well as the language of the successive codes of the State of South Carolina, the defendant, for a like period. That for just so long, the State of Georgia, the complainant herein, has acquiesced in and recognized this as the true and accepted boundary in all questions of jurisdiction and the Courts of said State have so held and taken cognizance; that complainant has for just so long yielded without protest to the State of South Carolina, the respondent or defendant herein, the right of assessing and collecting taxes upon this basis of apportionment, on hydroelectric power sites, industries and bridges spanning said rivers forming the boundary line. That the terms of the Beaufort Treaty have been so interpreted by the Courts of the United States in numerous cases and such interpretation or construction is *res judicata*. And that to disturb such construction would be in violation of the covenants of treaty and would deprive the State of South Carolina, the defendant herein, of her just, legal and vested rights and title asserted and possessed, openly, notoriously and peaceably thereunder since the date of said treaty and its ratification.

Having thus made full answer to all the matters and things contained in the Bill, this defendant prays to be dismissed hence with his costs in this behalf incurred.

Samuel M. Wolfe,
Attorney General, for the State of South Carolina, Defendant.

State of South Carolina, County of Richland.

Personally comes before me, the undersigned duly appointed and commissioned Notary Public for and in the State of South Carolina, authorized to administer oaths, Robert A. Cooper,

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who, on oath, says that he is the Governor of the State of South Carolina, the defendant herein, that he has read the foregoing answer to the Bill of Complaint by way of defense and that the matters alleged in said answer by way of defense are true.

R. H. Cooper

Governor of the State of South Carolina.

Sworn to and subscribed before me this 11th day
of Sept 1919.

M. J. Miller

Notary Public for S. C.

